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SENATE BILL 4

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX BY SEVENTY-FIVE CENTS (\$.75) PER PACK; PROVIDING FOR A TRIBAL TAX-CREDIT STAMP FOR TRIBES THAT IMPOSE A TRIBAL CIGARETTE TAX; ADJUSTING THE DISTRIBUTIONS OF THE CIGARETTE TAX AND DISCOUNTS FOR TAX STAMPS; AMENDING EXEMPTIONS FROM THE CIGARETTE TAX; DISTRIBUTING ADDITIONAL REVENUE ATTRIBUTABLE TO THE INCREASE IN THE CIGARETTE TAX TO THE GENERAL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county and municipality recreational fund in an amount equal to ~~[one and thirty-five]~~ eighty-six

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1 hundredths percent of the net receipts, exclusive of penalties
2 and interest, attributable to the cigarette tax.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the county and municipal cigarette tax
5 fund in an amount equal to [~~two and sixty-nine~~] one and
6 seventy-hundredths percent of the net receipts, exclusive of
7 penalties and interest, attributable to the cigarette tax.

8 C. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to the cancer research and treatment center
10 at the university of New Mexico health sciences center in an
11 amount equal to [~~one and thirty-five~~] eighty-six hundredths
12 percent of the net receipts, exclusive of penalties and
13 interest, attributable to the cigarette tax.

14 D. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to the New Mexico finance authority in an
16 amount equal to [~~two and two~~] one and twenty-eight hundredths
17 percent of the net receipts, exclusive of penalties and
18 interest, attributable to the cigarette tax.

19 E. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 in an amount equal to [~~fourteen and thirty-seven~~] nine and
21 ten-hundredths percent of the net receipts, exclusive of
22 penalties and interest, attributable to the cigarette tax,
23 shall be made, on behalf of and for the benefit of the
24 university of New Mexico health sciences center, to the New
25 Mexico finance authority.

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1 F. A distribution pursuant to Section 7-1-6.1 NMSA
2 1978 in an amount equal to [~~six and five~~] three and eighty-
3 three hundredths percent of the net receipts, exclusive of
4 penalties and interest, attributable to the cigarette tax shall
5 be made to the New Mexico finance authority for land
6 acquisition and the planning, designing, construction and
7 equipping of department of health facilities or improvements to
8 such facilities.

9 G. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 in an amount equal to [~~fifteen and seventy-nine~~
11 ~~hundredths~~] ten percent of the net receipts, exclusive of
12 penalties and interest, attributable to the cigarette tax shall
13 be made to the New Mexico finance authority for deposit in the
14 credit enhancement account created in the authority.

15 H. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 in an amount equal to [~~one~~] sixty-three hundredths percent
17 of the net receipts, exclusive of penalties and interest,
18 attributable to the cigarette tax shall be made, on behalf of
19 and for the benefit of the rural county cancer treatment fund,
20 to the New Mexico finance authority."

21 Section 2. Section 7-12-2 NMSA 1978 (being Laws 1971,
22 Chapter 77, Section 2, as amended) is amended to read:

23 "7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

24 A. "cigarette" means:

25 (1) any roll of tobacco or any substitute for

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1 tobacco wrapped in paper or in any substance not containing
2 tobacco;

3 (2) any roll of tobacco that is wrapped in any
4 substance containing tobacco, other than one hundred percent
5 natural leaf tobacco, which, because of its appearance, the
6 type of tobacco used in the filler, its packaging and labeling,
7 or its marketing and advertising, is likely to be offered to,
8 or purchased by, consumers as a cigarette, as described in
9 Paragraph (1) of this subsection;

10 (3) bidis and kreteks; or

11 (4) any other roll of tobacco that is defined
12 as a "cigarette" in Subsection D of Section 6-4-12 NMSA 1978;

13 B. "close of business" means that time when a
14 business ceases to operate for the remainder of the day or
15 12:00 a.m., if the business is open and conducting business at
16 12:00 a.m.;

17 ~~[B-]~~ C. "contraband cigarettes" means cigarette
18 packages with counterfeit stamps, counterfeit cigarettes,
19 cigarettes that have false or fraudulent manufacturing labels,
20 cigarettes not sold in packages of five, ten, twenty or twenty-
21 five, cigarette packages without the tax, tax-credit or tax-
22 exempt stamps required by the Cigarette Tax Act and cigarettes
23 produced by a manufacturer or in a brand family not included in
24 the directory;

25 ~~[C-]~~ D. "department" means the taxation and revenue

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1 department, the secretary of taxation and revenue or any
2 employee of the department exercising authority lawfully
3 delegated to that employee;

4 ~~[D.]~~ E. "directory" means a listing of tobacco
5 product manufacturers and brand families that is developed,
6 maintained and published by the attorney general under the
7 Tobacco Escrow Fund Act;

8 ~~[E.]~~ F. "distributor" means a person licensed
9 pursuant to the Cigarette Tax Act to sell or distribute
10 cigarettes in New Mexico. "Distributor" does not include:

11 (1) a retailer;

12 (2) a cigarette manufacturer, export warehouse
13 proprietor or importer with a valid permit pursuant to 26
14 U.S.C. 5713, if that person sells cigarettes in New Mexico only
15 to distributors that hold valid licenses under the laws of a
16 state or sells to an export warehouse proprietor or to another
17 manufacturer; or

18 (3) a common or contract carrier transporting
19 cigarettes pursuant to a bill of lading or freight bill, or a
20 person who ships cigarettes through the state by a common or
21 contract carrier pursuant to a bill of lading or freight bill;

22 ~~[F.]~~ G. "license" means a license granted pursuant
23 to the Cigarette Tax Act that authorizes the holder to conduct
24 business as a manufacturer or distributor of cigarettes;

25 ~~[G.]~~ H. "manufacturer" means a person that

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1 manufactures, fabricates, assembles, processes or labels a
2 cigarette or that imports from outside the United States,
3 directly or indirectly, a finished cigarette for sale or
4 distribution in the United States;

5 ~~[H.]~~ I. "master settlement agreement" means the
6 settlement agreement and related documents entered into on
7 November 23, 1998 by the state and leading United States
8 tobacco product manufacturers;

9 ~~[I.]~~ J. "package" means an individual pack, box or
10 other container; "package" does not include a container that
11 itself contains other containers, such as a carton of
12 cigarettes;

13 K. "qualifying tribal cigarette tax" means an
14 excise, privilege or similar tax at a minimum rate of:

15 (1) three and seventy-five hundredths cents
16 (\$.0375) per cigarette if the cigarettes are packaged in lots
17 of twenty or twenty-five;

18 (2) seven and one-half cents (\$.075) per
19 cigarette if the cigarettes are packaged in lots of ten; or

20 (3) fifteen cents (\$.15) per cigarette if the
21 cigarettes are packaged in lots of five;

22 ~~[J.]~~ L. "retailer" means a person, whether located
23 within or outside of New Mexico, that sells cigarettes at
24 retail to a consumer in New Mexico and the sale is not for
25 resale;

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1 ~~[K.]~~ M. "stamp" means an adhesive label issued and
2 authorized by the department to be affixed to cigarette
3 packages for excise tax purposes and upon which is printed a
4 serial number and the words "State of New Mexico" and "tobacco
5 tax";

6 ~~[L.]~~ N. "tax stamp" means a stamp that has a
7 specific cigarette tax value pursuant to the Cigarette Tax Act;
8 [~~and~~]

9 O. "tax-credit stamp" means a stamp that indicates
10 the cigarette package bearing the stamp is to be or has been
11 sold by a retailer located on land of a tribe that has imposed
12 a qualifying tribal cigarette tax;

13 ~~[N.]~~ P. "tax-exempt stamp" means a stamp that
14 indicates a tax-exempt status pursuant to the Cigarette Tax
15 Act;

16 Q. "tribal member" means a person who is recognized
17 by the governing body of an Indian tribe to be an enrolled
18 member of that Indian tribe;

19 R. "tribe" means a federally recognized Indian
20 nation, tribe or pueblo located wholly or partially in New
21 Mexico, including:

22 (1) a political subdivision, agency or
23 department of a tribe;

24 (2) an incorporated or unincorporated
25 enterprise of a tribe, one or more tribes or a political

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1 subdivision of a tribe; or

2 (3) a corporation considered to be an Indian
3 or a tribe by the federal government or the state; and

4 S. "tribe's land" means:

5 (1) the reservation, pueblo grant or trust
6 land of a tribe or group of tribes; or

7 (2) land restricted against alienation by the
8 federal government owned by the tribe or by a member of that
9 tribe."

10 Section 3. Section 7-12-3 NMSA 1978 (being Laws 1971,
11 Chapter 77, Section 3, as amended) is amended to read:

12 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

13 A. For the privilege of selling, giving or
14 consuming cigarettes in New Mexico, there is levied an excise
15 tax at the following rates for each cigarette sold, given or
16 consumed in this state:

17 (1) [~~four and fifty-five hundredths cents~~
18 ~~(\$.0455)~~] eight and three-tenths cents (\$.083) if the
19 cigarettes are packaged in lots of twenty or twenty-five;

20 (2) [~~nine and ten-hundredths cents (\$.091)~~]
21 sixteen and six-tenths cents (\$.166) if the cigarettes are
22 packaged in lots of ten; or

23 (3) [~~eighteen and twenty-hundredths cents~~
24 ~~(\$.182)~~] thirty-three and two-tenths cents (\$.332) if the
25 cigarettes are packaged in lots of five.

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1 B. The tax imposed by this section shall be
2 referred to as the "cigarette tax"."

3 Section 4. Section 7-12-3.1 NMSA 1978 (being Laws 1986,
4 Chapter 13, Section 3, as amended) is amended to read:

5 "7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--
6 DATE PAYMENT OF TAX DUE.--

7 A. A tax that may be identified as the "cigarette
8 inventory tax" is imposed on a distributor that has in its
9 possession tax-exempt stamps, tax-credit stamps or tax stamps,
10 whether or not affixed to packages of cigarettes, ~~[on]~~ at the
11 close of business on the day prior to the date on which an
12 increase in the cigarette tax imposed by Section 7-12-3 NMSA
13 1978 is effective.

14 B. The cigarette inventory tax due from the
15 distributor is calculated by multiplying the number of tax
16 stamps in the distributor's possession by the increase in the
17 excise tax. Tax-exempt stamps and tax-credit stamps are not
18 included in the calculation to determine the amount of
19 cigarette inventory tax to be paid by a distributor.

20 C. The cigarette inventory tax is to be paid to the
21 department on or before the twenty-fifth day of the month
22 following the month in which the increase in the cigarette tax
23 is effective."

24 Section 5. Section 7-12-3.2 NMSA 1978 (being Laws 1986,
25 Chapter 13, Section 4, as amended) is amended to read:

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1 "7-12-3.2. CIGARETTE INVENTORIES.--

2 A. ~~[On]~~ At the close of business on the day prior
3 to any date on which the cigarette tax imposed by Section
4 7-12-3 NMSA 1978 is increased, each distributor shall take
5 inventory of tax-exempt stamps, tax-credit stamps and tax
6 stamps on hand, including stamps affixed to packages of
7 cigarettes.

8 B. Each distributor shall report the total number
9 of tax-exempt stamps, tax-credit stamps and tax stamps in
10 inventory ~~[on]~~ at the close of business on the day prior to the
11 date on which the cigarette tax increases and pay the cigarette
12 inventory tax due."

13 Section 6. Section 7-12-4 NMSA 1978 (being Laws 1971,
14 Chapter 77, Section 4, as amended) is amended to read:

15 "7-12-4. EXEMPTION.--

16 A. Exempted from the cigarette tax are sales of
17 cigarettes:

18 (1) to the United States or any agency or
19 instrumentality thereof or the state of New Mexico or any
20 political subdivision thereof;

21 (2) to ~~[the governing body]~~ a tribe, or to
22 ~~[any enrolled]~~ a tribal member licensed by the governing body
23 of [any Indian nation] a tribe [or pueblo] for use or sale on
24 that [reservation or pueblo grant] tribe's land, if the tribe
25 has in place a qualifying tribal cigarette tax; and

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1 (3) sales [~~which~~] that the state is prohibited
2 from taxing by a provision of the United States constitution or
3 the constitution of the state of New Mexico.

4 B. As used in this section, the term "agency or
5 instrumentality" does not include persons who are agents or
6 instrumentalities of the United States for a particular purpose
7 or only when acting in a particular capacity or corporate
8 agencies or instrumentalities."

9 Section 7. A new section of the Cigarette Tax Act is
10 enacted to read:

11 "[NEW MATERIAL] CIGARETTE TAX--TRIBAL SALES--TAX-CREDIT
12 STAMPS.--

13 A. A distributor shall obtain from the department
14 tax-credit stamps to affix to packages of cigarettes sold to a
15 tribe or a tribal member licensed or otherwise approved by a
16 tribe to sell cigarettes under the authority of the tribe on
17 that tribe's land; provided that the tribe has certified to the
18 department that the tribe has in effect a qualifying tribal
19 cigarette tax.

20 B. Cigarettes sold by a tribe or tribal member
21 bearing a tax-credit stamp shall be sold for use or sale on
22 that tribe's land or on the land of another tribe or for use
23 but not for resale in the state at a location off any tribe's
24 land."

25 Section 8. Section 7-12-5 NMSA 1978 (being Laws 1971,
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1 Chapter 77, Section 5, as amended) is amended to read:

2 "7-12-5. AFFIXING STAMPS.--

3 A. Except as provided in Section 7-12-6 NMSA 1978,
4 all cigarettes shall be placed in packages or containers to
5 which a stamp shall be affixed. Only a distributor with a
6 valid license issued pursuant to the Cigarette Tax Act may
7 purchase or obtain unaffixed tax-exempt stamps, tax-credit
8 stamps or tax stamps. A distributor shall not sell or provide
9 unaffixed stamps to another distributor, manufacturer, export
10 warehouse proprietor or importer with a valid permit pursuant
11 to 26 U.S.C. 5713 or any other person.

12 B. Stamps shall be affixed by the distributor to
13 each package of cigarettes to be sold or distributed in New
14 Mexico within thirty days of receipt of those packages.

15 C. A distributor shall apply stamps only to
16 packages of cigarettes that the distributor has received
17 directly from another distributor or from a manufacturer or
18 importer of cigarettes that possesses a valid and current
19 permit pursuant to 26 U.S.C. 5713.

20 D. A distributor shall not affix a stamp to a
21 package of cigarettes of a manufacturer or a brand family that
22 is not included in the directory or sell, offer or possess for
23 sale cigarettes of a manufacturer or brand family that is not
24 included in the directory.

25 E. Packages shall contain cigarettes in lots of

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1 five, ten, twenty or twenty-five.

2 F. Unless the requirements of this section are
3 waived pursuant to Section 7-12-6 NMSA 1978, a tax stamp shall
4 be affixed to each package of cigarettes subject to the
5 cigarette tax, a tax-credit stamp shall be affixed to each
6 package of cigarettes subject to a qualifying tribal cigarette
7 tax, and a tax-exempt stamp shall be affixed to each package of
8 cigarettes not subject to the cigarette tax pursuant to Section
9 7-12-4 NMSA 1978.

10 G. A tax-exempt stamp or tax-credit stamp is not an
11 excise tax stamp for purposes of determining units sold
12 pursuant to Section 6-4-12 NMSA 1978.

13 H. Stamps shall be affixed inside the boundaries of
14 New Mexico, unless the department has granted a license
15 allowing a person to affix stamps outside New Mexico."

16 Section 9. Section 7-12-7 NMSA 1978 (being Laws 1971,
17 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,
18 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended
19 to read:

20 "7-12-7. SALE OF STAMPS--PRICES.--

21 A. Only the department shall sell stamps. Stamps
22 may be sold by the department only to a distributor.

23 B. Stamps shall display a serial number. Stamps
24 bearing the same serial number shall not be sold to more than
25 one distributor. The department shall keep records of the

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1 serial numbers of the stamps provided to each distributor.

2 C. A stamp shall be affixed to a package of
3 cigarettes in such a manner as to clearly display the serial
4 number at the point of sale.

5 D. Tax stamps shall be sold at their face value
6 with the following discounts:

7 (1) [~~one~~] fifty-five hundredths percent less
8 than the face value of the first thirty thousand dollars
9 (\$30,000) of stamps purchased in one calendar month;

10 (2) [~~eight-tenths~~] forty-four hundredths
11 percent less than the face value of the second thirty thousand
12 dollars (\$30,000) of stamps purchased in one calendar month;
13 and

14 (3) [~~one-half~~] twenty-seven hundredths percent
15 less than the face value of stamps purchased in excess of sixty
16 thousand dollars (\$60,000) in one calendar month.

17 E. Tax-credit stamps shall be provided only to
18 distributors and shall be provided free of charge; provided
19 that the distributor is in full compliance with the reporting
20 requirements of the Cigarette Tax Act and rules adopted
21 pursuant to that act.

22 [~~E.~~] F. If the face value of tax stamps sold in a
23 single sale is less than one thousand dollars (\$1,000), the
24 discount provided for in this section shall not be allowed.

25 [~~F.~~] G. Payment for tax stamps shall be made on or

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1 before the twenty-fifth day of the month following the month in
2 which the sale of stamps by the department is made.

3 [~~G.~~] H. Tax-exempt stamps shall be provided only to
4 distributors and shall be free of charge; provided that the
5 distributor is in full compliance with the reporting
6 requirements of the Cigarette Tax Act and rules adopted
7 pursuant to that act."

8 Section 10. Section 7-12-9.2 NMSA 1978 (being Laws 2006,
9 Chapter 91, Section 8, as amended) is amended to read:

10 "7-12-9.2. DISTRIBUTOR'S LICENSE.--

11 A. A person shall not distribute stamped packages
12 of cigarettes for resale or sell stamped packages of cigarettes
13 at wholesale without first obtaining a distributor's license
14 from the department.

15 B. A person licensed to distribute cigarettes is
16 authorized to:

17 (1) receive unstamped packages of cigarettes
18 from a manufacturer or a distributor;

19 (2) purchase tax stamps and receive
20 tax-exempt stamps and tax-credit stamps from the department;

21 (3) affix tax stamps, tax-credit stamps or
22 tax-exempt stamps to unstamped packages of cigarettes;

23 (4) sell stamped packages of cigarettes to a
24 retailer for resale or to a distributor; and

25 (5) sell unstamped packages of cigarettes to a

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1 person licensed to distribute cigarettes outside of New Mexico
2 or to a distributor."

3 Section 11. Section 7-12-17 NMSA 1978 (being Laws 1971,
4 Chapter 77, Section 14, as amended) is amended to read:

5 "7-12-17. REPORTING REQUIREMENTS--PENALTY.--

6 A. Each person who sells in New Mexico cigarettes
7 manufactured by that person or who receives on consignment or
8 buys cigarettes either directly from the manufacturer or from
9 any out-of-state person for resale in New Mexico shall report
10 to the department by the twenty-fifth day of each month that
11 person's sales of cigarettes during the preceding month in each
12 municipality and within that portion of each county outside of
13 the municipalities located in that county. The department
14 shall then advise the state treasurer of the proportion of the
15 total sales of cigarettes for the month within each
16 municipality and within that portion of each county outside of
17 municipalities, including sales of cigarettes to tribes or
18 tribal members in a county or municipality. The reports of
19 such persons shall, upon receipt by the department, become
20 public records.

21 B. Any person who sells in New Mexico cigarettes
22 manufactured by that person or who receives on consignment or
23 buys cigarettes for resale in New Mexico who willfully fails to
24 render accurately the reports required by this section and any
25 municipal or county officer who approves any expenditure or

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1 expends funds distributed from the county and municipality
2 recreational fund for any purposes other than permitted by
3 Section 7-12-15 NMSA 1978 is guilty of a petty misdemeanor.

4 C. Any tobacco product manufacturer, stamping agent
5 or importer of cigarettes, or any officer, employee or agent of
6 any such entity, who knowingly makes a materially false
7 statement in any record required to be kept by the Cigarette
8 Tax Act, or in any report or return required to be filed with
9 the department by the Cigarette Tax Act, is guilty of a fourth
10 degree felony."

11 Section 12. Section 7-12-18 NMSA 1978 (being Laws 2006,
12 Chapter 91, Section 14, as amended) is amended to read:

13 "7-12-18. REPORTS.--

14 A. A distributor shall submit periodic reports to
15 the department, in the manner and on the form prescribed by the
16 department. A distributor shall submit a separate report for
17 each of its facilities. The information in the report shall be
18 itemized and shall clearly disclose cigarette brands,
19 quantities and the type of stamp applied to the packages of
20 cigarettes. A report shall include:

21 (1) an inventory of stamped and unstamped
22 packages of cigarettes held for sale or distribution within New
23 Mexico at the beginning of the reporting period;

24 (2) the quantity of stamped packages of
25 cigarettes held for sale or distribution within New Mexico that

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1 were received from another person during the reporting period
2 and the name and address of each person from whom each quantity
3 was received;

4 (3) the quantity of New Mexico stamped
5 packages of cigarettes that were distributed or shipped to
6 another distributor or retailer within New Mexico during the
7 reporting period and the name and address of each person to
8 whom each quantity was distributed or shipped;

9 (4) the quantity of unstamped packages of
10 cigarettes that were distributed or shipped to another
11 distributor within New Mexico during the reporting period and
12 the name and address of each person to whom each quantity was
13 distributed or shipped;

14 (5) the quantity of New Mexico stamped
15 packages of cigarettes that were distributed or shipped to
16 another facility of the same distributor within New Mexico
17 during the reporting period and the address of that facility;

18 (6) the quantity of stamped cigarette packages
19 that were distributed or shipped within New Mexico to [~~an~~
20 ~~Indian nation, tribe or pueblo or to a person located on the~~
21 ~~land of an Indian nation, tribe or pueblo]~~ a tribe or tribal
22 member or to instrumentalities of the federal government during
23 the reporting period and the name and address of each person,
24 entity or instrumentality to whom each quantity was distributed
25 or shipped;

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1 (7) an inventory of stamped and unstamped
2 packages of cigarettes held for sale or distribution within New
3 Mexico at the end of the reporting period;

4 (8) an inventory of stamped and unstamped
5 packages of cigarettes for sale or distribution outside of New
6 Mexico at the beginning of the reporting period;

7 (9) the quantity of packages of cigarettes
8 held for sale or distribution outside of New Mexico that were
9 received from another person during the reporting period and
10 the name and address of each person from whom each quantity was
11 received;

12 (10) the quantity of packages of cigarettes
13 that were distributed or shipped outside New Mexico during the
14 reporting period;

15 (11) an inventory of packages of cigarettes
16 held for sale or distribution outside of New Mexico at the end
17 of the reporting period;

18 (12) the number of each type of stamp on hand
19 at the beginning of the reporting period;

20 (13) the number of each type of stamp
21 purchased or received during the reporting period;

22 (14) the number of each type of stamp applied
23 during the reporting period; and

24 (15) the number of each type of stamp on hand
25 at the end of the reporting period.

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1 B. A manufacturer shall submit periodic reports in
2 the manner and on the form prescribed by the department. The
3 information in the report shall be itemized to clearly disclose
4 cigarette brands and quantities. The reports shall be provided
5 separately with respect to each of the facilities operated by
6 the manufacturer. A report shall contain the quantity of
7 packages of cigarettes that were distributed or shipped:

8 (1) to a manufacturer, distributor or retailer
9 within New Mexico during the reporting period and the name and
10 address of each person to whom each quantity was distributed or
11 shipped;

12 (2) to another facility within New Mexico of
13 the same manufacturer during the reporting period and the
14 address of the facility; and

15 (3) within New Mexico to ~~[an Indian nation,~~
16 ~~tribe or pueblo or to a person located on the land of an Indian~~
17 ~~nation, tribe or pueblo]~~ a tribe or tribal member or to
18 instrumentalities of the federal government during the
19 reporting period and the name and address of each person,
20 entity or instrumentality to whom each quantity was distributed
21 or shipped.

22 C. The department may require additional
23 information to be submitted. The department shall establish
24 the reporting period, which shall be no longer than three
25 calendar months and no shorter than one calendar month."

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1 Section 13. Section 7-12-19 NMSA 1978 (being Laws 2006,
2 Chapter 91, Section 15) is amended to read:

3 "7-12-19. INTERGOVERNMENTAL AGREEMENTS--NO WAIVER OF
4 SOVEREIGN IMMUNITY.--

5 A. The department may enter into an
6 intergovernmental agreement with a tribe to:

7 (1) enforce, administer or otherwise implement
8 the provisions of the Cigarette Tax Act;

9 (2) increase the ability of the department to
10 account for packages of cigarettes imported into, sold or
11 transferred within and exported from the state; and

12 (3) provide for cooperative tax collection or
13 tax administration of the cigarette tax.

14 B. Nothing in the Cigarette Tax Act shall be
15 construed to waive or restrict the sovereign immunity of a
16 tribe or the state.

17 ~~[C. As used in this section, "tribe" means an~~
18 ~~Indian nation, tribe or pueblo located wholly or partially in~~
19 ~~New Mexico.]"~~

20 Section 14. APPLICABILITY.--The distributions pursuant
21 to the provisions of Section 1 of this act apply to receipts
22 from the cigarette tax that are attributable to sales that
23 occur on or after July 1, 2010.

24 Section 15. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2010.

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